

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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George & Company LLC,

Plaintiff,

-against-

Spin Master US Holdings, Inc.; Spin Master, Inc.;
Cardinal Industries, Inc.; WalMart, Inc., *a foreign
profit corporation*; and Joel Berger, *an individual*,

Defendants.

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DIANE GUJARATI, United States District Judge:

MEMORANDUM & ORDER

19-CV-04391 (DG) (SJB)

19-CV-04883 (DG) (SJB)

On July 31, 2019, Plaintiff George & Company LLC commenced this action against Spin Master Corp., Spin Master US Holdings, Inc., Spin Master Ltd., Spin Master, Inc., Cardinal Industries, Inc., WalMart, Inc., and Joel Berger (collectively, “Defendants”), bringing a variety of claims related to Plaintiff’s LCR/LEFT CENTER RIGHT game. *See generally* Complaint, ECF No. 1.

On February 4, 2020, Defendants filed a motion to dismiss. *See* ECF Nos. 27-36. On November 30, 2020, United States District Judge Rachel P. Kovner granted in part and denied in part that motion. *See George & Co. LLC v. Spin Master Corp.*, No. 19-CV-04391, 2020 WL 7042665, at *12 (E.D.N.Y. Nov. 30, 2020). Defendants Spin Master Corp. and Spin Master Ltd. were dismissed from the case based on lack of personal jurisdiction. *See id.*

On December 14, 2020, the remaining Defendants answered and Spin Master, Inc. filed two counterclaims seeking the cancellation of certain of Plaintiff’s marks. *See generally* ECF No. 52; *see id.* at 37 ¶ 22, 40 ¶ 33. On December 17, 2020, this action was reassigned to the undersigned from Judge Kovner.

On April 16, 2021, Plaintiff filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) (“the Motion”), seeking dismissal of both of Spin Master, Inc.’s counterclaims. *See* Plaintiff’s Motion to Dismiss, ECF No. 60; Plaintiff’s Memorandum in Support of Motion to Dismiss, ECF No. 61; Defendant Spin Master, Inc.’s Memorandum in Opposition to Motion to Dismiss, ECF No. 62; Plaintiff’s Reply in Support of Motion to Dismiss, ECF No. 63. On April 21, 2021, I referred the Motion to Magistrate Judge Sanket J. Bulsara for a Report and Recommendation (“R&R”). *See* Apr. 21, 2021 Order.

On November 23, 2021, Judge Bulsara issued an R&R recommending that Plaintiff’s Motion be denied. *See* R&R at 2, 24, ECF No. 84. No objection to the R&R has been filed, and the time for doing so has passed. *See id.* at 24.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). To accept those portions of an R&R to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Jarvis v. N. Am. Globex Fund, L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (quotation marks omitted).

I have reviewed Judge Bulsara’s R&R, and, having found no clear error, adopt the R&R in its entirety.

Accordingly, Plaintiff’s Motion to Dismiss Spin Master, Inc.’s counterclaims, ECF No. 60, is denied.

The parties are directed to pretrial discovery before Judge Bulsara.

SO ORDERED.

/s/ Diane Gujarati
DIANE GUJARATI
United States District Judge

Dated: December 28, 2021
Brooklyn, New York